



THE ATTORNEY GENERAL
OF TEXAS

AUSTIN, TEXAS 78711

JOHN L. BILL
ATTORNEY GENERAL

April 10, 1975

The Honorable Clarence Jones, Sheriff
Dallas County
Dallas County Government Center
Dallas, Texas 75202

Open Records Decision No. 78

Re: Whether Sheriff is covered
by Open Records Act as to
files on bail bondsmen.

Dear Sheriff Jones:

You have requested our decision as to the applicability of the Open Records Act, article 6252-17a, V. T. C. S., to information held by your office, and if the Act does apply, whether affidavits of licensed bail bond companies are excepted from disclosure under the Act.

Unless otherwise excluded we believe information held by the sheriff's office is covered by the Open Records Act by virtue of section 2(1)(F) which provides:

Sec. 2. In this Act:

(1) 'Governmental body' means:

. . .

(F) the part, section, or portion of every organization, corporation, commission, committee, institution, or agency which is supported in whole or in part by public funds, or which expends public funds. Public funds as used herein shall mean funds of the State of Texas or any governmental subdivision thereof; . . .

The office of sheriff is created under the judicial article of the Constitution [Texas Constitution, art. 5, §23] and is a part of the judicial department of the State government. See State v. Moore, 57 Tex. 307 (1882). The Open Records Act in section 2(1)(G) excludes "the Judiciary" from the definition of governmental body; however, we do not believe this exclusion operates here to remove the sheriff from the coverage of the Act. It is our opinion that the

Legislature did not use the term "judiciary" to denote all those persons who are in the judicial department. Thus, it is our view that a district court would be excluded from the operation of the Act, while the Sheriff would not. The Legislature's specific inclusion of commissioners courts in the Act reinforces this view since commissioners courts are also created in the judicial article of the Constitution. Texas Constitution, art. 5, §18. See V.T.C.S., art. 6252-17a, §2 (1)(B).

You ask whether the information requested is excepted from disclosure under section 3(a)(8), the law enforcement exception. The information involved was not collected for the purpose of detection or investigation of crime, but for licensing and financial security purposes. We do not believe section 3(a)(8) applies.

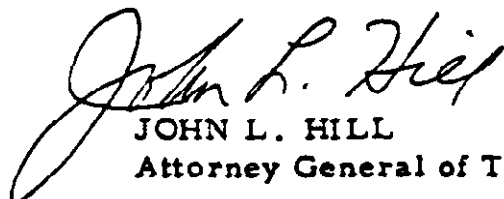
You also suggest that the information may be withheld because it is connected with an investigation into the activities of bail bondsmen. Section 3(a)(3) of the Act excepts:

information relating to litigation of a criminal or civil nature . . . to which the state or political subdivision is, or may be, a party, or to which an officer or employee of the state or political subdivision, as a consequence of his office or employment, is or may be a party, that the attorney general or the respective attorneys of the various political subdivisions has determined should be withheld from public inspection.

In this case, we believe the appropriate person to make such a determination as to whether the information should be withheld would be the Criminal District Attorney of Dallas County. Absent such a determination by him, we do not believe the information requested is excepted from disclosure.

In view of the above, we believe the information requested is public information and should be disclosed.

Very truly yours,


JOHN L. HILL
Attorney General of Texas

APPROVED:



DAVID M. KENDALL, First Assistant



C. ROBERT HEATH, Chairman
Opinion Committee